IN THE HIGH COURT OF BOMBAY AT GOA

CONTEMPT PETITION NO. 3 OF 2002
IN
APPEAL FROM ORDER NO. 40 OF 2001

Mr. Roque Inacio Pereira,
major of age, residing at Adaovado,
Gonsua, Post Majorda, Salcete-Goa. .... Petitioner

V/s

M/s. Eastern International Hotels Ltd.,
a Company incorporated under the companies Act,
with its Registered Office at Holiday Inn,
Balraj Sahani Marg, Juhu Beach, Mumbai,
represented in this Act, through its Director,
Shri Jagdish Khanna,
son of Mahadev Prasad Khanna,
residing at 21-A, Aurangzeb Lane,
New Delhi – 110 001. .... Respondents

Mr. D. Pangam, Advocate for the Petitioner.
Mr. J.E. Coelho Pereira, Sr. Advocate with Mr. V. Korgaonkar, Advocates for Respondent No.1.
Mr. C. A. Coutinho, Advocate for original Respondent No.2 in Appeal From Order No. 40 of 2001.

CORAM : **R.S. MOHITE, J.**

DATE : **5th JULY, 2007.**

ORAL JUDGMENT :

This Contempt Petition has been filed by the original Defendant No.2, alleging breach of status quo order passed by this Court on 27/09/2001, while admitting an Appeal From Order filed by the Petitioner. Admittedly, an Appeal From Order was filed impugning order dated 28/03/2001 disposing off two applications, one filed by the Plaintiff and the other filed by the

Defendant No.2 (present Petitioner), both being applications under Order 39 Rules 1 & 2 of the C.P.C.

2. In the order under challenge, the trial Court restrained Defendants No.1 and 2 from interfering with the suit property except a part admeasuring 66 sq. mts. and 11 sq. mts. thereon.

3. Contempt Petition has been filed, as in the Appeal From Order filed by the present Petitioner, this Court directed the maintainance of status quo. It is alleged that some temporary structure was erected by the original plaintiff on the suit property. The defence was that the erection of a temporary structure was permissible. I, however, find that once injunction has been granted against the Defendant, what was required to be done was to obtain a stay of the said injunction as also to obtain specific order against erection of any construction. I find that in the Civil Application filed in the Appeal From Order being Civil Application No. 133 of 2001, what was prayed for was the stay of the operation of the impugned order dated 28/03/2001. There was also specific injunction sought to restrain the original plaintiff from doing any damage to the trees in the suit property, from doing any construction activity in the suit property or in any way altering the status quo existing in the suit property. However, only the grant of status quo could

only mean that the injunction would continue to operate. In the circumstances, the alleged action cannot be said to be contemptuous and, therefore, the Contempt Petition must fail. I am informed that Civil Application in Appeal From Order came up on board on 6/12/2001 and at this stage instead of pressing for stay, the applicant sought permission to withdraw the application and the said Civil Application was dismissed for non-prosecution.

4. In this view of the matter, petition stands disposed off.

R.S. MOHITE, J.

NH/-